MT LEGISLATIVE HISTORY

Chapter 370 1981

Bill (H) 550 S _____ Original bill & hist. ✓C

H. Committee on Taxation			S. Committee on Business & Industry		
Hearing Date(s)	Feb 09	✓C	Hearing Date(s)	Mar 16	✓C
	Feb 11	✓C			C
	Feb 12	✓C			C
		C			C
Date Out	Feb 13	✓C		Mar 16	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 550

INTRODUCED BY KEMMIS, VAN VALKENBURG, DOZIER, YARDLEY

IN THE HOUSE

January 28, 1981	Introduced and referred to Committee on Taxation.
February 13, 1981	Committee recommend bill do pass as amended. Report adopted.
February 14, 1981	Bill printed and placed on members' desks.
February 17, 1981	Second reading, do pass.
February 18, 1981	Correctly engrossed.
February 19, 1981	Third reading, passed. Ayes, 96; Noes, 3. Transmitted to Senate.

IN THE SENATE

February 20, 1981	Introduced and referred to Committee on Business and Industry.
March 17, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in as amended. Ayes, 47; Noes, 1.

IN THE HOUSE

March 23, 1981	Returned from Senate with amendments.

April 7, 1981	Second reading, amendments concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, amendments concurred in. Ayes, 81; Noes, 14. Sent to enrolling. Reported correctly enrolled.

homestead."

Section 4. Section 70-32-105, MCA, is amended to read:

"70-32-105. Mode of selection -- declaration required. ~~In--order--to--select~~ The person selecting a homestead~~, the head of a family~~ must execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of homestead and file the same for record."

Section 5. Section 70-32-106, MCA, is amended to read:

"70-32-106. Contents of declaration. The declaration of homestead must contain:

~~(1) a statement showing that the person making it is the head of a family. If both spouses join in the declaration, this fact shall be stated.~~

(2) a statement that the person making it is residing on the premises and claims them as a homestead; and

(3) a description of the premises~~.~~

~~(4) an estimate of their actual cash value.~~"

Section 6. Section 70-32-202, MCA, is amended to read:

"70-32-202. Execution allowed under certain judgments. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

~~(1) before the declaration of homestead was filed for record and which constitute liens upon the premises;~~

~~(2)~~(1) on debts secured by mechanics' or vendors' liens upon the premises;

~~(3)~~(2) on debts secured by mortgages on the premises, executed and acknowledged by the husband and wife or by an unmarried claimant; or

~~(4)~~(3) on debts secured by mortgages on the premises, executed and recorded before the declaration of homestead was filed for record."

Section 7. Section 25-13-614, MCA, is amended to read:

"25-13-614. Earnings of judgment debtor. (1) The earnings of the judgment debtor for his personal services rendered at any time within 45 days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise that such earnings are necessary for the use of his family supported in whole or in part by his labor, are exempt; but where debts are incurred by any such person or his wife or family for gasoline and for the common necessaries of life, then the one-half of such earnings are nevertheless subject to execution, garnishment, and attachment to satisfy debts so incurred.

(2) The words "his family", as used in this section, are to be construed ~~with the words "head of family", as used in 70-32-102.~~ to include:

(a) the judgment debtor's spouse;

(b) every person who resides with the judgment debtor under his care or maintenance and who is:

(i) a minor child of the judgment debtor or of his

spouse or former spouse;

(iii) a minor grandchild, brother, or sister or minor child of a brother or sister of the judgment debtor or of his spouse;

(iii) a father, mother, grandfather, or grandmother of the judgment debtor or of his spouse or former spouse;

(iv) an unmarried sister, brother, or any other relative of the judgment debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself."

Section 8. Section 25-13-617, MCA, is amended to read:

"25-13-617. Truck or automobile. (1) In addition to all other exemptions, one truck or automobile of the value of not more than $300 is exempt from attachment or execution where the debtor is the head of a family or over 60 years of age; but where debts are incurred by any such debtor or his wife or family for the common necessaries of life, then such truck or automobile is nevertheless subject to attachment and execution to satisfy debts so incurred.

(2) The words "his family", as used in this section, are to be construed ~~with the words "head of family", as used in 70-32-102,~~ to include:

(a) the debtor's spouse;

(b) every person who resides with the debtor under his care or maintenance and who is:

(i) a minor child of the debtor or of his spouse or former spouse;

(ii) a minor grandchild, brother, or sister or minor child of a brother or sister of the debtor or of his spouse;

(iii) a father, mother, grandfather, or grandmother of the debtor or of his spouse or former spouse;

(iv) an unmarried sister, brother, or any other relative of the debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself."

Section 9. Repealer. Section 70-32-102, MCA, is repealed.

-End-

HB550

TAXATION COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 540	For adjusting the registration date for aircraft to eliminate conflicts with other taxation laws	Jan 28	Huennekens	Feb 6	Do pass unan Feb 13	
HB 541	To provide a graduated tax for class four property, based on the income of the owner	Jan 28	Huennekens	Feb 9	Do pass unan Feb 17	
HB 543	To allocate a portion of the oil and gas severance tax proceeds directly to producing counties for road improvements	Jan 28	Jacobsen	Feb 12	Tabled 5 opposed Feb 13 Do pass as amended 10-9 March 6	March 7
HB 548	To increase to 2 cents a gallon the license tax on aviation fuel.	Jan 28	Sivertsen	Feb 20	Do pass 4 opp March 4	March 5
HB 549	To generally revise the law on the Homestead exemption	Jan 28	Keyser	Feb 10	Do not pass 1 opposed Feb 11	
HB 550	To revise the homestead exemption law	Jan 28	Kemmis	Feb 9	Do pass as amended Feb 12	

HOUSE TAXATION COMMITTEE MEETING MINUTES
February 9, 1981

A meeting of the House Taxation Committee was held on Monday, February 9, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Brand, who was excused, and Reps. Devlin and Harrington, who were absent. HOUSE BILLS 539, 541 and 550 were heard and a presentation on HOUSE BILL 92 was made by Dr. Rolf Weil.

HOUSE BILL 550, sponsored by Rep. Dan Kemmis, was heard first. This bill revises the Homestead Exemption law. Up to certain limits a home is exempt from execution when the owner becomes a judgment debtor. The Montana constitution provides for a liberal homestead exemption, and he submitted that present law wasn't complying with the Constitution. Also, due to technical problems, people sometimes have a difficult time getting an exemption. The bill increases the exemption amount from $20,000 to $40,000. Other problems with the law are: (1) mobile homes not owning the land they are on cannot get an exemption. (2) single people cannot claim an exemption because the law says only "heads of households" can do this. Another section of the law provides that it is unlawful discrimination for the State to refuse a person any privileges because of marital status. The bill eliminates references to "head of household". Under the bill, people living outside of Cities will be able to claim up to 5 acres under the exemption. He expressed willingness to adjust the amount of acreage. Also, he would be agreeable to reducing the acreage within the City.

Jim Jensen, Low Income Senior Citizens Advocacy, then rose in support of the bill and in particular the mobile home provision and the provision for people outside City limits.

Wensley Krawczyk, Low Income Group for Human Treatment LIGHT, then testified in support of the bill. Expanding the Homestead Tax Relief Act should be an ongoing process. This bill would cover 5,000-10,000 people in the Missoula area alone.

Phyllis A. Bock, Montana Legal Services, then spoke. One of the Senior Citizens' main concerns is losing their homes because of medical bills; this bill would protect them.

Jack Boles, Montana Manufactured Housing Dealers Association, stated that he felt it was justified to include mobile homes in the bill. $20,000 will hardly buy a mobile home today.

Linda MacKenzie, Montana Credit Union League, then rose in OPPOSITION to the bill. She read Jeff Kirkland's testimony; see Exhibit "A."

Questions were then asked. Rep. Kemmis agreed that the exemption amount on trucks and automobiles should also be changed; Rep. Bertelsen wished to amend the bill to include this provision. The amount of equity is the basis of the $40,000 figure in the bill. Rep. Kemmis pointed out that the equity couldn't be taken away and the person couldn't be forced to sell. Rep. Underdal wanted to know if a mobile home would still be exempt if it left the State. Rep. Kemmis replied that the mobile home would be subject to the laws of the State that it

went to. The term "homestead" can only apply to a home in Montana.

Rep. Kemmis pointed out that the family definitions were existing language and had simply been moved from another part of the Codes.

Rep. Nordtvedt wanted to know, if the exemption was $40,000, if Senior Citizens might not be able to incur medical debts and have their homes free of liens. Rep. Kemmis replied that the exemption applied only to the judgment itself. However, if someone owed a hospital $10,000 and died and there wasn't enough in the estate to pay the bill, supposing the hospital got a judgment against the estate, the estate wouldn't qualify for a Homestead exemption. So, when the estate liquidated that real estate, the hospital could maintain its claim for the bills.

Rep. Neuman wanted to know why line 22 on Page 3 was being stricken. The sponsor replied that at present, in order to claim an exemption, one has to have filed before a judgment is entered and there are very few people who ever do this; this exemption needs to be available for everyone and not just those who had lawyers who took care of this.

Rep. Neuman brought up the case where there was a judgment against some property and the property was sold and the new owner claimed a homestead exemption; he submitted that the original debt couldn't then be collected. Rep. Kemmis replied that if there was a lien against the property other than a judgment lien, the homestead exemption wouldn't apply to the lien. Rep. Neuman submitted that it seemed to him that property with a lien on it could be sold and the purchaser could claim an exemption and the person who put the original lien on would be out in the cold. Rep. Nordtvedt stated that this question would be researched.

Rep. Kemmis then closed. He apologized for the bill being in Taxation, because it wasn't a taxation bill, and should probably have been assigned to the Judiciary Committee. He said that if the Committee preferred to have the bill moved, he had no objection. Regarding the Credit Union testimony, he agreed that debtors should have a fair chanc to get their share from a bankruptcy. However, the Constitution makes it clear that home owners have a right to a liberal homestead exemption The question is, what does it take to own a home in Montana, and is $20,000 enough. The hearing on HB 550 was then closed,

A presentation was then given regarding HOUSE BILL 92. John Delano, Montana Railroad Association, gave a short introduction; Steve Wood, Burlington Northern, then introduced Dr. Rolf Weil, President, Roosevel University, Chicago.

Dr. Weil gave a presentation on the 4-R Act and the classified property tax codes of Montana and the relationship between the two. He made recommendations which could put Montana's law in compliance with the 4-R Act, in his opinion; see Exhibit "B." He stressed that legislation

Taxation 2/9/81
EXHIBIT "A"

HOUSE BILL 550

TESTIMONY OF JEFFRY M. KIRKLAND
DIRECTOR OF GOVERNMENTAL RELATIONS
MONTANA CREDIT UNIONS LEAGUE

BEFORE THE HOUSE TAXATION COMMITTEE
ON MONDAY, 9 FEBRUARY, 1981

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, DIRECTOR OF GOVERNMENTAL AND COMMUNITY RELATIONS FOR THE MONTANA CREDIT UNIONS LEAGUE. OUR LEAGUE IS A TRADE ASSOCIATION REPRESENTING 133 OF 136 CREDIT UNIONS IN MONTANA, AND IT IS ON THEIR BEHALF THAT WE STAND IN OPPOSITION TO HOUSE BILL 550.

OUR MAJOR CONCERN WITH THE BILL IS THAT IT WOULD DOUBLE THE MAXIMUM HOMESTEAD EXEMPTION ALLOWED A DEBTOR IN A BANKRUPTCY PROCEEDING FROM THE CURRENT $20,000 TO $40,000. IN ESSENCE, THAT WOULD ALLOW THE DEBTOR TO SHIELD FROM HIS CREDITORS A MAXIMUM OF $40,000 OF HIS EQUITY IN REAL PROPERTY.

AS NON-PROFIT COOPERATIVE LENDING INSTITUTIONS OWNED AND OPERATED BY OUR MEMBERS, CREDIT UNIONS HAVE ALWAYS BEEN DEMONSTRABLY CONCERNED WITH THE ECONOMIC WELL-BEING OF OUR CONSUMER-MEMBERS. IN FACT, FINANCIAL COUNSELING FOR MEMBERS WHO ARE IN ECONOMIC DIFFICULTIES IS ONE OF OUR MOST IMPORTANT SERVICES. AND IT IS FROM THIS STANDPOINT OF CONSUMER-MEMBER ADVOCACY THAT WE OPPOSE HOUSE BILL 550.

BANKRUPTCY HAS TRADITIONALLY BEEN A METHOD OF OBTAINING A "FRESH START" FOR THOSE WHO HAVE BECOME OVERWHELMED BY DEBT, EITHER

FROM POOR ECONOMIC JUDGMENT OR FROM SOME CATASTROPHIC OCCURRENCE SUCH AS ILLNESS, LOSS OF EMPLOYMENT, OR AN ACCIDENT. AS LENDERS, EVEN THOUGH WE SUSTAIN LOSSES FROM BANKRUPTCIES, WE AGREE WITH THE "FRESH START" CONCEPT OF BANKRUPTCY.

HOWEVER, WE ALSO BELIEVE THAT BANKRUPTCY SHOULD RESULT IN EQUITABLE TREATMENT FOR BOTH THE DEBTOR AND HIS CREDITORS. THAT IS, THE DEBTOR SHOULD BE ABSOLVED FROM HIS UNMANAGEABLE DEBT, AND THE CREDITORS SHOULD RECEIVE AS MUCH OF WHAT THEY ARE CONTRACTUALLY ENTITLED TO AS POSSIBLE.

SHOULD THE HOMESTEAD EXEMPTION BE DOUBLED FROM $20,000 TO $40,000, SOME PRE-BANKRUPTCY PLANNING BY THE DEBTOR'S ATTORNEY COULD OSTENSIBLY ELIMINATE MOST, IF NOT ALL, OF THE DEBTOR'S ASSETS FROM THE BANKRUPTCY ESTATE, THEREBY LEAVING NOTHING FOR DISTRIBUTION TO THE CREDITORS.

AGAIN, WE STRONGLY BELIEVE IN THE DEBTOR'S RIGHT TO A "FRESH START" AFTER BEING ABSOLVED FROM UNMANAGEABLE DEBT. HOWEVER, WE DO NOT BELIEVE THAT THE DEBTOR SHOULD BE RELEASED FROM ALL HIS CONTRACTUAL OBLIGATIONS TO THE COMPLETE DETRIMENT OF HIS CREDITORS.

AS LENDERS, WE SEEK AN ELEMENT OF FAIRNESS IN A BANKRUPTCY PROCEEDING, AND THE ABILITY TO SHIELD A MAXIMUM OF $40,000 IN EQUITY FROM THE BANKRUPTCY ESTATE SIMPLY DOES NOT PROVIDE EQUITABLE TREATMENT TO CREDITORS. THE HOMESTEAD EXEMPTION SHOULD PROVIDE THE DEBTOR A REASONABLE BASIS FOR STARTING OVER. IT SHOULD NOT, HOWEVER, SERVE AS A DEVICE TO BETTER HIS ECONOMIC POSITION AT THE EXPENSE OF HIS CREDITORS.

CREDIT UNIONS ARE MEMBER-OWNED, AND EVERY TIME A CREDIT UNION SUSTAINS A LOSS THROUGH BANKRUPTCY, IT IS NOT A SELECT GROUP OF STOCKHOLDERS THAT GETS HURT--IT IS EACH AND EVERY ONE OF THE CREDIT

UNION'S MEMBERS. AS I MENTIONED PREVIOUSLY, WE ARE CONCERNED WITH THE ECONOMIC WELL-BEING OF OUR CONSUMER-MEMBERS, BUT WE ARE ALSO CONCERNED WITH THE EQUITABLE TREATMENT OF OUR MEMBER-OWNERS. WE DON'T BELIEVE THAT THE DOUBLING OF THE CURRENT $20,000 HOMESTEAD EXEMPTION TO $40,000 PROVIDES THAT EQUITABLE TREATMENT.

FOR THAT VERY COMPELLING REASON, WE URGE THAT THIS COMMITTEE RECOMMEND THAT HOUSE BILL 550 DO NOT PASS.

Rep. Nordtvedt said that one of his problems with local option taxes was that in his city of Bozeman, there was a sector of the voting public which was not permanent residents, and this could have an unfair influence on the vote outcome. He added that he favored local control, however.

Rep. Williams said that the cities had created a lot of their own problems, but the Legislature had created some of their problems, also He pointed out that elsewhere in the nation similar programs were bein used, and were workable if properly applied. In addition they brought control back to the local level.

Rep. Vinger said that if this bill passed, all of the options would have to be dropped except the motel tax, because of the opposition they would meet.

The question was called for on the substitute motion of DO NOT PASS; motion carried 11 - 7; see roll call vote.

Rep. Asay then moved that HOUSE BILL 525 DO PASS. Motion carried unanimously.

Rep. Williams moved that HOUSE BILL 549 DO NOT PASS. Discussion took place. The Federal Homestead exemption is $7,500. Rep. Williams pointed out that the Federal statutes contained a large loophole in this exemption. This bill would also leave a fairly large loophole for people trying to claim bankruptcy.

Rep. Roth submitted that the bill might encourage bankruptcy, and this is a poor precedent.

Rep. Oberg said that this bill would enable people to take advantage of both the Federal and the State laws concerning bankruptcy.

Rep. Dozier called for the question. Motion carried with Rep. Dozier opposed.

Rep. Harp then moved that HOUSE BILL 550 DO NOT PASS. Rep. Oberg rose in support of the bill. He pointed out that the State Constitution mandated that there be a liberal exemption.

Rep. Nordtvedt submitted that even a $20,000 equity could be in a fairly expensive home in some instances. Rep. Underdal spoke up in favor of the mobile home inclusion in the bill. He submitted that the exemption amount could be amended back down to $20,000. Rep. Roth suggested that on Page 2, line 15, the original language of 1/4 acre be gone back to. Rep. Oberg moved to include Rep. Roth's suggestion in his motion. Discussion then took place regarding whether the amendments would change the bill more than would be acceptable without a Committee bill. Rep. Sivertsen rose in support of the provision defining "family."

Rep. Neuman requested that action on the bill be postponed for one day in order to study the amendments. Rep. Harp withdrew his motion; Rep. Oberg withdrew his motion. There was agreement to postpone actio on the bill for one day.

Rep. Sivertsen announced that the Fee Bill Subcommittee would be meeti upon adjournment of the Taxation Committee meeting of February 12.

The meeting adjourned at 10:30 a.m.

Rep. Ken Nordtvedt, Chairman

da

HOUSE TAXATION COMMITTEE MEETING MINUTES
February 12, 1981

A meeting of the House Taxation Committee was held on Thursday, February 12, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Brand, who was excused. HOUSE BILLS 543, 552, and 408 were heard and EXECUTIVE ACTION was taken on HOUSE BILL 550.

The first bill to be heard was HOUSE BILL 408, sponsored by Rep. Chuc Cozzens. He explained that he had introduced the bill at the request of the League of Cities and Towns. Every two years, the date on this law has to be extended. The act is extended each session of the Legi lature so as to provide validation to bond issues. The intent of the act is to cure any effect or error that might have occurred. It serv as a statutory limitation. Holders of the bonds as well as insurers are entitled to some reassurance that the bond issue won't be declare invalid. The change this bill is asking for is a change which will cover bonds that were issued since "January 15, 1979" to the "date of the act." The definition of "public body" is also changed. An amend- ment was distributed; see Exhibit "A." The current definition isn't broad enough to include a commission or a board of a County or a City and the amendment takes care of this.

Bruce MacKenzie, D. A. Davidson Company, then rose in support of the bill. He submitted a letter he had written to Rep. Cozzens and a let- ter from Mr. William A. Johnstone to him; see Exhibit "B."

There were no OPPONENTS to HB 408. Questions were then asked. Rep. Nordtvedt wanted to know what it meant to cure a bond. He was told that procedural defects in the bond were covered by the validating act, and that was curing. An example of a procedural defect would be if there were too many words on the ballot description of the bond.

Rep. Cozzens then closed, and the hearing on HB 408 was closed.

HOUSE BILL 543, sponsored by Rep. Glenn Jacobsen, was then heard. He distributed a letter from the City of Plentywood, and one from the County Commissioners of Sheridan County; see Exhibit "C." This bill would take 20% of the oil and gas severance tax and allocate 75% of that amount to County roads and bridges, and 20% to City streets and alleys in the counties producing the oil and gas. The industry has created a need for road work. If the severance tax is raised, the percentage could be lowered in order to derive the same figures.

Rep. Glen Roush rose in support of the bill. This bill will provide an advantage to the city. He added, however, that Great Falls' Judge Hatfield has determined that severance taxes collected by tribal gover ments don't have to be paid to the State, and this may cause a problem with the bill.

Ed McCaffree, First Vice President of the Montana Association of Count then rose in support of the bill. 39 Counties are at or near their bonding limits for roads, and 34 are for their bridges.

Rep. Roush then closed. The bill only asks to delete the termination date of the act. He sees no problem with the existing language in the bill.

The Committee then went into EXECUTIVE SESSION.

Rep. Neuman presented some amendments for HOUSE BILL 550; see Exhibit "D." He moved that they be adopted; Rep. Asay seconded the motion. Motion carried, with Reps. Oberg and Dozier opposed. Rep. Devlin then moved that the bill DO PASS AS AMENDED; motion carried unanimously.

The meeting was adjourned.

Rep. Ken Nordtvedt, Chairman

da

Taxation 2/12/91
EXHIBIT "D"

AMENDMENT TO HOUSE BILL 550

1. Page 1, line 5.
   Following: "LAWS;"
   Strike: "INCREASING THE EXEMPTION TO $40,000;"

2. Page 2, line 11.
   Following: "exceeding"
   Strike: "5 acres"
   Insert: "1 acre"

3. Page 2, line 15.
   Following: "an"
   Strike: "1"
   Insert: "1/4"

4. Page 2, line 19.
   Following: "~~$20,000~~"
   Strike: "$40,000."
   Insert: "$20,000."

5. Page 5, line 14.
   Following: "than"
   Strike: "$300"
   Insert: "$1,000"

STANDING COMMITTEE REPORT

February 13, 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 550

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE HOMESTEAD EXEMPTION LAWS; INCREASING THE EXEMPTION TO $40,000; INCLUDING MOBILE HOMES WITHIN THE EXEMPTION; ALLOWING ALL PERSONS TO CLAIM THE EXEMPTION; ALLOWING THE EXEMPTION TO BE CLAIMED AFTER A JUDGMENT IS RECORDED; AMENDING SECTIONS 25-13-614, 25-13-617, 70-32-101, 70-32-103 THROUGH 70-32-109, AND 70-32-202, MCA; AND REPEALING SECTION 70-32-102, MCA."

Respectfully report as follows: That HOUSE Bill No. 550,

introduced (white), be amended as follows:

1. Page 1, line 5.
Following: "LAWS;"
Strike: "INCREASING THE EXEMPTION TO $40,000;"

2. Page 2, line 11.
Following: "exceeding"
Strike: "5 acres"
Insert: "1 acre"

3. Page 2, line 15.
Following: "an"
Strike: "1"
Insert: "one-fourth of an"

~~DO PASS~~

(Page 1 of 2 pages)

Rep. Ken Nordtvedt, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE ON TAXATION AMENDMENTS TO HOUSE BILL 550:

4. Page 2, line 19.
Following: "~~$20,000~~"
Strike: "$40,000"
Insert: "$20,000"

5. Page 5, line 14.
Following: "than"
Strike: "$300"
Insert: "$1,000"

AND AS AMENDED
DO PASS

Rep. Ken Nordtvedt, Chairman.

STATE PUB. CO.
Helena, Mont.

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
468	2/16	3/11	3/11				3/11		
492	3/2	3/16	3/16				3/16		
495	2/20	3/13	3/13				3/13		
510	2/20	3/13	3/14				3/14		
550	2/20	3/16	3/16					3/16	
574	3/3	3/17	3/21						3/21
578	3/4	3/20	32/21					3/21	
625	3/3	3/16	3/16				3/16		
692	3/4	3/20	3/21					3/21	
702	3/3	3/16	3/16					3/16	
706	3/3	3/17	3/18	RECONSIDER 3/26					3/26
710	3/3	3/17	3/21	BACK TO COMMITTEE AND TABLED 3/23					
720	3/4	3/17	3/18						3/18
743	3/4	--		NO ACTION TAKEN					
780	3/4	3/25	3/26 TABLED						

There was no further discussion and the hearing closed on House Bill No. 625.

HOUSE BILL NO. 550: Representative Kemmis, District #94 presented the bill, stating this bill is a bill to clear up some inadequacies in the homestead exemption of Montana. We are not talking about Governor Judge's tax bill. The Montana Constitution says that we are to provide for a liberal homestead exemption. It revises the homestead exemption law by allowing all persons to claim the exemption. The law revises the homestead claimed for areas in municipalities and areas outside municipalities. Mobile homes would be able to be included in the homestead. The exemption for automobiles is raised from $300 to $1000. The definition of family is revised to replace "head of family" in section 70-32-102 which is repealed. Also, this provides so that your home is protected from judgment creditors. In section 1, page 1, line 16 we have added a reference for mobile homes. There is no way they can protect that home if they don't own the land it is on. They will now have the same protection as everyone else.

On line 24, we delete language. If you don't qualify as a head of a family you don't get an exemption. We have struck out the reference to "head of family". If you use your land for a living, you can claim 350 acres. On page 2, line 19, is the most major change in the bill as it was introduced. I still think this is necessary. By limiting people to $20,000 we are not allowing a homestead exemption. We are not meeting the constitution with that exemption. I would suggest raising that to $40,000.

There is one other large change on Page 3, lines 22 and 23. You now have to file with the clerk and recorder before a judgment could come against you. This has to be filed before a judgment situation in order to claim the exemption. Anything else would still be subject to the judgment. On page 4 and 5, section 7, the only reason that that is in there is this, it has nothing to do with the homestead exemption. It refers to the head of family, so we had to put in this other language. The same is true of section 8 on pages 5 and 6, raising the amount that could be used in a car or truck situation.

PROPONENTS:

PHYLLIS BOCK representing the Montana Legal Services. As the Legal Developer for legal services for senior citizens across the State of Montana in 1980, one of the most frequent concerns of senior citizens was that they would become ill, end up in the hospital, incur large hospital and doctor bills not covered by Medicare After they were unable to pay for their bills in a lump sum and the bills were turned over to collection agencies, they would be sued and would be forced to sell their homes to pay for the bills. They

may have paid $20,000, the current exemption, when they purchased their homes thirty years ago, but its current value has risen, like inflation, so their homes are no longer safe under the current exemption rules in Montana. We support the $40,000 for the homestead exemption.

LINDA McKELAN: We support the homestead exemption. This is the equity in the home and not the value.

JIM JENSEN: LISCA. We support this bill with the $40,000 exemption. Most senior citizens have paid off their homes and they cannot protect their homes at the $20,000 level. We also support the mobile homes and the outlying area. We understand that a "fresh start" concept does not apply to senior citizens.

WES CROFFSTECK: Missoula. We would like to ask for your support for HB 550. We believe that the inclusion of mobile homes is a good part of the bill, since there are now so many people living in mobile homes and it has become an important part of our society. We would also like to have the amount $20,000 raised to $40,000.

SPEAKING GOODBYE:
MR. JENSEN read a statement from TOM RYAN in support of the bill, representing MSCA.

A list of exemptions was presented to the committee:

1. one-half of these exemptions not exempt for debts incurred for necessities of life.

2. The exemption that applies to household furnishings, goods, clothes, appliances, books, animals, crops, or musical instruments primarily for personal use.

3. The exemption applicable only if annual premiums less than $500 per year.

4. The unused portion of the federal homestead exemption may be added to the base of $400.

5. Alimony and pension plans are restricted. Both are limited to the amount reasonably necessary for support, and the type of pension plan qualifying is strictly limited by statute.

Reference should be made to 11 USC 522(d)(10)(E) for all pension questions.

Comparisons of state and federal exemptions are attached. EXHIBIT "A".

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR BLAYLOCK: Why would they put it back down to $20,000.

MR. KEMMIS: The equity that is being protected had something to do with it.

SENATOR KOLSTAD: Will these sections you address change the bankruptcy exemption.

MR. KEMMIS: This will change that.

SENATOR LEE: We would be allowing an individual to now get $40,000.

MR. KEMMIS: You don't get $40,000 in cash, this is a credit.

Discussion followed for several minutes.

SENATOR GOODOVER: What if someone is in a subdivision and they can only keep one acre out of a five, what do they do with the other four acres.

MR. KEMMIS: I believe that is covered, where you can only protect your allowable acre.

Discussion followed, and the questions was raised whether you might have to seek a variance.

The hearing closed on House Bill No. 550.

HOUSE BILL NO. 492: Representative Meyer, District #42 presented the bill. The bill allows the holder of a supplementary license under the Consumer Loan Act to make open-end loans. Interest would be at 2% per month as per HB 321. The unpaid balance on which interest is charged would be allowed to include insurance and filing and recording fees. It would allow a person to set up a line of credit at a finance company, such as if you are building a home but you would not need all of the money at one time, but would withdraw as you go along.

JERRY LOENDORF representing the Montana Consumer Finance Association spoke in favor of the bill. This is allowed by Consumer Loan Companies across the United States. There is no prohibition against this, it was just never provided for. This would be an open-end loan, where people might take more than a year to do this. He went on to discuss how the provisions would help both lender and buyer. It is much cheaper to get a loan from a Consumer Loan Company. This would allow open-end loans to be made in the same manner as closed-end loans.

Following the regular meeting the committee took action on the following bills, at 11 a.m.

HOUSE BILL NO. 702:

GREG PETESCH, the staff attorney presented the proposed amendment as follows:

1. Page 2, lines 10 and 11
Following: "therefor;"
Strike: remainder of line 10 through "THAT" on line 11.
Insert: "if"

SENATOR DOVER moved the amendment. The motion carried with the vote unanimous.

SENATOR DOVER moved that as amended, HB 702 be concurred in. The motion carried with the vote unanimous. Senator Dover will carry.

HOUSE BILL NO. 625:

SENATOR BOYLAN moved that House Bill 625 be not concurred in. The motion failed on a roll call vote of 5 to 3.

In answer to a question Mr. Curtiss Hansen mentioned that most of the retailers are now using contracts. I think it is a good bill. It is not penalizing the consumers any.

MR. BOLES: Many stores use a system where they will charge something for 90 days but after that there should be some charge involved. This is a convenient way for them to do business.

Then followed discussion about the rate of interest.

SENATOR DOVER moved be concurred in. The motion carried on a roll call vote of 5 to 3. Senator Goodover will carry.

HOUSE BILL NO. 550:

There was discussion about the proposed amendments, as follows:

1. Title, line 5
Following: "~~$40,000~~"
Insert: "INCREASING THE EXEMPTION TO $40,000;"

2. Page 2, line 19.
Following: "~~$40,000~~"
Strike: "$20,000"
Insert: "$40,000"

SENATOR DOVER moved the amendments. The motion carried on a vote of 6 to 2.

SENATOR DOVER moved as amended, be concurred in. The motion carried with the vote unanimous. Senator Van Valkenburg will carry since he is a co-sponsor.

HOUSE BILL NO. 492:

SENATOR LEE moved be concurred in. Then followed discussion about the interest rate and what this bill will let them do. It was stated that many open-end loans would be 2% per month but that the closed-end loans would vary.

The motion carried with Senators Regan and Blaylock voting no with a vote of 6 to 2. Senator Lee will carry.

HOUSE BILL NO. 106:

SENATOR KOLSTAD moved be concurred in. The motion carried with the vote unanimous. Senator Kolstad will carry.

The meeting adjourned at 11:55 a.m.

Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

HB 550

	STATE	FEDERAL
1. Homestead (ex. entitlement)	$20,000	$7,500
2. Car[1] (ex. entitle.)	~~$ 300~~ $1000	$1,200
3. Necessary Furniture	No Limit	$ 200 (Per Item)[2]
4. Life Insurance	No Limit[3]	Unmatured No Limit Cash Value $4,000
5. 45 Days Earnings[1] (ex. entitlement)	No Limit	See 12 Below
6. Clothes	No Limit	See 3 Above
7. 1 Horse, 2 Cows, 4 Hogs, 50 Fowl, 3 Months Feed	See 3 Above	See 3 Above
8. Clock & Family Pictures		See 3 Above
9. One Gun	No Limit	----------
10. Tools of Trade	No Limit	$ 750
11. Jewelry		$ 500
12. Omnibus		$400 to $7,900[4]
13. Professionally Prescribed Health Aids		No Limit
14. Social Security, Welfare, Disability Benefits, Pension Plans, Alimony		No Limit[5]
15. Crime Victim Reparations, Wrongful Death Awards, Life Insurance Proceeds, Personal Injury Awards		Reasonably Necessary For Support

NAME: Phyllis A. Bock DATE: 3/16/81

ADDRESS: Helena, Montana

PHONE: 442-9830

REPRESENTING WHOM? Montana Legal Services Assn.

APPEARING ON WHICH PROPOSAL: HB 550

DO YOU: SUPPORT? * AMEND? X OPPOSE? _____

COMMENTS: As the Legal Developer for legal services for senior citizen across the state of Montana in 1980, one of the most frequent concerns of senior citizens was that they would become ill, end up in the hospi incur large hospital and doctor bills not covered by Medicare. After they were unable to pay for their bills in a lump sum and the bills we turned over to collection agencies, they would be sued and would be fo to sell their homes to pay for the bills. They may have paid $20,000 (the current exemption) when they purchased their homes thirty years but its current value has risen like inflation so their homes are no l safe under the current exemption rules in Montana. We support the $40,000 homestead exemption.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

March 16, 19 81

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 550

Kemmis (Senator Van Valkenburg)
S

Respectfully report as follows: That HOUSE Bill No. 550,

third reading copy, be amended as follows:

1. Title, line 5
Following: "~~$40,000~~"
Insert: "INCREASING THE EXEMPTION TO $40,000;"

2. Page 2, line 19
Following: "~~$40,000~~"
Strike: "$20,000"
Insert: "$40,000"

And, as so amended,

BE CONCURRED IN

~~XXXXXXX~~

Frank W. Hazelbaker, Chairman.

STATE PUB. CO.
Helena, Mont.